

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
ENFORCEMENT AND REMOVAL OPERATIONS
ICE HEALTH SERVICE CORPS**

EMERGENCY CONTRACEPTION

IHSC Directive: 04-01

ERO Directive Number: 11771.2

Federal Enterprise Architecture Number: 306-112-002b

Effective Date: 24 Mar 2016

By Order of the Acting Assistant Director
Stewart D. Smith, DHSc/s/

- 1. PURPOSE:** The purpose of this issuance is to establish policy and procedures regarding the provision of emergency contraception (EC) for female detainees and residents.
- 2. APPLICABILITY:** This directive applies to all U.S. Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC) personnel including but not limited to, Public Health Service (PHS) officers, civil service employees and contract personnel. It is applicable to IHSC personnel supporting health care operations in ICE-owned or contracted detention facilities, including family residential facilities, and to IHSC Headquarters (HQ) staff. This directive applies to contract personnel when supporting IHSC in detention facilities and at HQ. Federal contractors are responsible for the management and discipline of their employees supporting IHSC.
- 3. AUTHORITIES AND REFERENCES:**
 - 3-1.** Title 8, Code of Federal Regulations, Section 235.3 ([8 CFR § 235.3](#)), Inadmissible Aliens and Expedited Removal;
 - 3-2.** Section 232 of the Immigration and Nationality Act, as amended, Title 8, U.S. Code, Section 1222 ([8 U.S.C. § 1222](#)), Detention of Aliens for Physical and Mental Examination;
 - 3-3.** Title 8, Code of Federal Regulations, Part 232 ([8 CFR 232](#)), Detention of Aliens for Physical and Mental Examination;
 - 3-4.** Section 322 of the Public Health Service Act, as amended, Title 42 U.S. Code, Section 249(a) ([42 U.S.C. § 249\(a\)](#)), Medical Care and Treatment of Quarantined and Detained Persons; and

3-5. Title 42, U.S. Code, Section 252 ([42 U.S.C. § 252](#)), Medical Examination of Aliens.

4. **POLICY:** IHSC must offer access to EC for female detainees/residents, hereafter referred to as “detainee,” if indicated.

4-1. Emergency Contraception. EC, also known as postcoital contraception and the morning-after pill, refers to oral contraceptives and the copper intrauterine device (IUD) that can be used after unprotected sexual intercourse to prevent a possible pregnancy. Emergency oral contraceptives prevent pregnancy by delaying ovulation, while the copper IUD works by inhibiting fertilization.

- a. EC must be administered within five days (120 hours) of unprotected sexual intercourse to be effective.
- b. EC use is contraindicated if the detainee is pregnant.
- c. The IUD method of EC will be utilized if the detainee is intolerant of oral EC or if there are significant contraindications for oral EC use. The IUD must be inserted by staff qualified to do so.
- d. When emergency oral contraceptive use is indicated, IHSC staff should generally administer EC at the detention facility. Off-site referrals for oral emergency contraceptive medication administration are generally unnecessary.

4-2. Emergency Oral Contraceptives. The IHSC Formulary has designated two emergency oral contraceptive medications for use. IHSC facilities housing female detainees must have both medications available in the After Hours Cabinet, so IHSC staff may access the medication at any time to minimize delays in administering emergency oral contraceptives.

4-3. Intake screening. IHSC intake screening staff must ask female detainees aged ten to 56 years of age whether they have engaged in unprotected sexual intercourse within the past five days.

- a. If a female detainee reports non-consensual sexual intercourse, a formal sexual assault evaluation is required. This formal sexual assault evaluation must be performed at an emergency department or other qualified facility.
- b. If a female adult detainee (18 years of age or older) reports consensual unprotected sexual intercourse that occurred within the past five days, the intake screening staff must ask the detainee if she would like EC to prevent a possible pregnancy. If EC is

desired, the intake screening staff must consult a physician or mid-level provider (MLP).

- c. Continuing contraception is available after intake screening, after a recent sexual assault that carries the risk of unwanted pregnancy, and when medically necessary.
- d. If a juvenile resident (less than 18 years of age) reports unprotected sexual intercourse within the past five days, the intake screening staff must ask the juvenile and parent of the juvenile if EC is desired to prevent a possible pregnancy. If EC is desired, the intake screening staff must consult an IHSC physician or MLP. The parent of the juvenile must give consent in order for EC to be given.

4-4. **Evaluation.** A physical examination by a nurse or medical provider is not required to administer EC. Refer to the attached IHSC Emergency Contraception Decision Guide to assist in selecting the appropriate EC.

- a. **Medical Provider On-Site.** If a detainee is identified as being eligible for an emergency oral contraceptive, and the MLP or physician is on-site, the MLP/physician must:
 - (1) Interview the detainee to verify the five day/120 hour period of EC eligibility.
 - (2) Ensure the urine pregnancy test result is negative.
 - (3) Document counseling of the risks/benefits and acceptance of EC utilizing the IHSC Emergency Oral Contraception Consent Form (Form 925).
- b. **Medical Provider Not On-Site.** If a medical provider is not on-site, the nurse must contact the on-call MLP or physician to review the case and determine if EC is appropriate. The nurse will document the following:
 - (1) That the detainee is within the five day/120 hour period of EC eligibility.
 - (2) The nurse must document that the urine pregnancy test result is negative.
 - (3) The nurse must document counseling of the risks/benefits and acceptance of EC utilizing the IHSC Emergency Oral Contraception Consent Form.

(4) The on-call MLP or physician will complete the telephone encounter to document the verbal order and the administration of EC when the medical provider next returns to the facility or has eCW access.

4-5. Situations Where EC Should Not Be Provided. EC should not be administered in the following circumstances:

- a. The urine pregnancy test is positive.
- b. The detainee refuses to sign the IHSC Medical Consent Form (IHSC Form 793) or electronic equivalent.
- c. The detainee refuses to sign the IHSC Emergency Oral Contraception Consent Form.
- d. The detainee appears mentally impaired, appears under the influence of an intoxicating substance, provides inconsistent or confusing responses, appears under duress, and/or is unable to communicate effectively. In any of these situations, the detainee must be referred to a medical provider for further evaluation to determine the appropriateness for EC. Further evaluation may be warranted by a behavioral health provider or an emergency department to assist in determining the appropriateness of EC.

4-6. Post-EC Follow-Up Testing. Any female detainee who is administered EC must have a urine pregnancy test repeated four weeks after EC administration to verify the absence of pregnancy. The IHSC medical provider who prescribed EC should order the follow-up urine pregnancy test. If the urine pregnancy test is positive, the detainee must be referred for obstetrical services.

4-7. Patient Education. The medical provider or nurse should provide the detainee an EC patient education hand-out which is available in English and Spanish. IHSC staff must explain patient education information through a qualified interpreter, as needed, for detainees who understand other languages or for detainees who cannot read.

5. PROCEDURES: The procedures related to this directive are covered in the *IHSC Emergency Contraception Guide*. See the attached IHSC Emergency Oral Contraceptives Decision Guide for EC medication eligibility and medication selection.

6. HISTORICAL NOTES: This directive replaces 04-01 *Emergency Contraception*, dated 1 Dec 2015. Changes were made to section 4-3 and 4-7.

7. **DEFINITIONS:** See definitions for this policy in the IHSC Glossary located on SharePoint: [GLOSSARY FOR IHSC OFFICIAL GUIDANCE](#)

8. **APPLICABLE STANDARDS:**

8-1. **Performance-Based National Detention Standards (PBNDS):**

PBNDS 2011:

4.4 Medical Care (Women), V. Expected Practices, C. Past of Recent Abuse and/or Violence

8-2. **National Commission on Correctional Health Care (NCCHC):**

Standards for Health Services in Jails, 2014:

J-B-05: Response to Sexual Abuse.

J-E-02: Receiving Screening.

J-G-08: Contraception.

Standards for Health Services in Juvenile Detention, 2011:

Y-G-09: Family Planning.

9. **PRIVACY AND RECORDKEEPING.** IHSC maintains detainee health records in accordance with the Privacy Act and as provided in the Alien Health Records System of Records Notice, 80 Federal Register 239 (January 5, 2015). The records in the electronic health record (eHR)/eClinicalWorks (eCW) are destroyed ten (10) years from the date the detainee leaves ICE custody. Retention periods for records of minors may differ. Paper records are scanned into the eHR and are destroyed after upload is complete.

Protection of Medical Records and Sensitive Personally Identifiable Information (PII).

- 9-1. Staff must keep all medical records, whether electronic or paper, secure with access limited only to those with a need to know. Staff should lock paper records in a secure cabinet or room when not in use or not otherwise under the control of a person with a need to know.
- 9-2. Staff should be trained at orientation and annually on the protection of a patient's medical information and Sensitive PII.
- 9-3. Staff should reference the Department of Homeland Security *Handbook*

for Safeguarding Sensitive PII (Handbook) at:

(b)(7)(E)

when additional information concerning safeguarding sensitive PII is needed.

10. **NO PRIVATE RIGHT STATEMENT.** This directive is an internal policy statement of IHSC. It is not intended to, and does not create any rights, privileges, or benefits, substantive or procedural, enforceable against the United States; its departments, agencies, or other entities; its officers or employees; or any other person